

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MERLENE DAYAN and ESTATE OF  
RAYMOND DAYAN,

Case No. 20-CV-9563 (AKH)

Plaintiffs,

- against -

LEONORA SUTTON a/k/a LENORA SUTTON,  
ESTATE OF MAYER SUTTON, ISAAC  
SUTTON, ALBERT SUTTON, MORRIS  
SUTTON, ELIAS SUTTON a/k/a ELLIOT  
SUTTON, and ABC Co., Inc. 1-10,

Defendants,

**DECLARATION OF EVAN WEINTRAUB, ESQ. IN SUPPORT OF DEFENDANTS  
ALBERT SUTTON AND ELIAS SUTTON a/k/a ELLIOT SUTTON'S MOTION TO  
DISMISS PLAINTIFFS' FOURTH AMENDED COMPLAINT**

I, EVAN WEINTRAUB, declare the following under penalty of perjury under the laws of the United States:

1. I am a member of Wachtel Missry LLP, counsel to defendants Albert Sutton and Elias Sutton a/k/a Elliot Sutton (collectively, the "Moving Defendants"). I submit this declaration in support of the Moving Defendants' motion for an order dismissing, in the entirety, the Fourth Amended Complaint in this action with prejudice against Moving Defendants pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

2. The purpose of this declaration is to put before the Court true and correct copies of certain documents referred to in the Moving Defendants' motion papers.

3. Annexed hereto as **Exhibit A** is a true and correct copy of the First Amended Complaint ("FAC"), dated and filed March 1, 2021.

4. Annexed hereto as **Exhibit B** is a true and correct copy of a transcript, dated February 24, 2022, of oral argument of defendants' motions to dismiss the FAC.

5. Annexed hereto as **Exhibit C** is a true and correct copy of a post-conference order (“Post-Conference Order”) dismissing the FAC, dated and filed February 24, 2022.

6. Annexed hereto as **Exhibit D** is a true and correct copy of the Third Amended Complaint (“TAC”), dated April 8, 2022 and filed April 11, 2022.

7. Annexed hereto as **Exhibit E** is a true and correct copy of an order dismissing the TAC (“Order”), dated and filed June 21, 2022.

8. Annexed hereto as **Exhibit F** is a true and correct copy of the Fourth Amended Complaint (“4<sup>th</sup> Am. C.”), dated July 15, 2022 and filed July 18, 2022.

Dated: New York, New York  
July 29, 2022

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*s/Evan S. Weintraub*  
EVAN WEINTRAUB